

**MINUTES  
OF THE REGULAR MEETING OF THE  
EDINA HOUSING AND REDEVELOPMENT AUTHORITY  
HELD AT CITY HALL  
AUGUST 4, 1997 - 7:00 P.M.**

**ROLLCALL** Answering rollcall were Member Faust, Hovland, Maetzold and Mayor Smith. Member Kelly entered the meeting at 7:08 P.M.

**CONSENT AGENDA ITEMS APPROVED** Motion made by Member Hovland seconded by Member Maetzold to approve and adopt the Consent Agenda as presented.

Rollcall:

Ayes: Faust, Hovland, Maetzold, Smith

Motion carried.

**\*MINUTES OF THE REGULAR MEETING OF July 21, 1997, APPROVED** Motion made by Member Hovland and seconded by Member Maetzold approving the Minutes of the Regular Meeting of July 21, 1997.

Motion carried on rollcall vote - four ayes.

**RESOLUTION OF APPRECIATION PRESENTED TO CAPTAIN WILLIAM HANSEN** Mayor Smith presented a Resolution of Appreciation to Captain William Hansen retired firefighter for 42 years of commitment, dedication and responsibility to the Edina Fire Department.

**\*FINAL DEVELOPMENT PLAN FOR 3917-3929 WEST 50<sup>TH</sup> STREET (EDINA PROPERTIES) CONTINUED TO AUGUST 18, 1997** Motion made by Member Hovland and seconded by Member Maetzold to continue to August 18, 1997, the final development plan for 3917-3929 West 50<sup>th</sup> Street, Edina Properties.

Motion carried on rollcall vote - four ayes.

**FIRST READING GRANTED FOR ORDINANCE NO 1997-5 AN ORDINANCE AMENDING SECTION 815, ANTENNAS AND TOWERS** Affidavits of Notice were presented, approved, and ordered placed on file.

Planner Larsen noted the City Council has considered the subject ordinance a number of times, the last time being May 5, 1997. After reviewing the draft and receiving comments from PCS and cellular providers, the Council decided to conduct a workshop for the purpose of gathering technical information. On June 23, 1997, the City Council conducted this workshop facilitated by Jeffrey Nelson of WW Montgomery and Associates, a telecommunications consulting firm.

Planner Larsen outlined the revisions to draft Ordinance No. 1997-5:

- Subdivision 6 of Subsection 815.05 has been revised to allow cat walks, crow's nests and similar structures that are necessary for the maintenance of antennas.
- A definition of commercial use antenna or tower has been provided.
- Subdivision 1 of Subsection 815.06 has been modified requiring antenna setbacks to be the same as accessory building setbacks rather than principal building setbacks.
- Section 815.11 has been revised slightly to describe the process the Board of Appeals must use to consider modifications from the requirements of the Section.

Planner Larsen pointed out that the Board of Appeals would be considering modifications from the requirements of Section 815 rather than granting variances. He added that Staff is also proposing adoption of Ordinance No. 1997-11 providing additional powers and duties of the Zoning Board of

Appeals giving it powers to review request for modifications from the requirements of the Antenna Ordinance after the Planning Commission reviews it as required by Code.

**Public Comment**

Peter Beck, representing ATT, noted ATT is an existing provider of cellular service and has many existing sites in Edina including the Pentagon Park Penthouse and the facade of the Durham. Mr. Beck stated the following concerns regarding the ordinance:

- The ordinance as drafted will mean more poles because 75 feet is a minimum height for antennas. They must get over the trees in order to work effectively. This is a greater concern with PCS service than with cellular service.
- Setbacks of four or six times the tower heights make it difficult to find cell sites
- 1,000 foot separation of towers severely limits tower location.
- Setback location will end up putting the poles into the middle of the lots

Mr. Beck acknowledged he has addressed these issues many times with staff. He stated if these issues are not resolved providers will not be able to continue to provide service.

Tom Alexander representing APT, voiced concern regarding the 75 foot tower height and difficulties caused by the setbacks of four and six times the tower height. Mr. Alexander requested the City map potential locations.

Dave Hogen, Sprint PCS, stated he appreciated the time staff has spent working on the ordinance, but Sprint has the same concerns as previously stated by Mr. Beck and Mr. Alexander.

Mayor Smith suggested the providers help in diagramming potential sites for towers. Member Maetzold suggested Council grant First Reading, but he would like to see something brought back covering facade mounted antennas.

Mayor Smith asked the reasons the ordinance was written in its current form. Planner Larsen responded the ordinance was written to attempt to provide the maximum protection to residential property.

**Member Maetzold made a motion to grant first reading to Ordinance No. 1997-5 amending Section 815 Antennas and Towers of the Edina Code of Ordinances.** Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

First Reading granted.

**ORDINANCE NO 1997-11, AN ORDINANCE AMENDING SECTION 850 , PROVIDING ADDITIONAL POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS REVIEWED AND REFERRED TO PLANNING COMMISSION**

Mayor Smith noted the Council reviewed this portion of the antenna ordinance and directed Ordinance 1997-11 be referred to the Planning Commission for review as mandated by the City's Zoning Ordinance.

**FIRST READING GRANTED FOR ORDINANCE NO. 1997-9, AN ORDINANCE REPEALING SECTION 420 - EXCAVATION AND ENACTING SECTION 421 - RIGHTS-OF-WAY MANAGEMENT**

Assistant Manager Hughes noted the Council reviewed a draft of the proposed Ordinance 1997-9 repealing Section 420 and enacting Section 421 Rights-of-Way Management, July 21, 1997. Staff met with representatives of NSP, Minnegasco, USWest, KMC Telecom and Paragon. Staff has reviewed their comments and recommendations concerning the proposed ordinance and presented the new draft ordinance to Council redlined to show new and deleted language as compared to the original draft.

Staff recommended Council grant First Reading to this Ordinance. Additional comments and recommendations will be forthcoming and will be presented at the August 18, 1997, regular meeting.

Mayor Smith noted correspondence dated August 1, 1997, had been received from Richard Pilon, Senior Administration Engineer/Permit Engineer with Minnegasco.

**Member Kelly made a motion granting First Reading to Ordinance No. 1997-9, An Ordinance Repealing Section 420, Excavations and Enacting Section 421, Rights-of-Way Ordinance.**

Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

First Reading granted.

**FIRST READING GRANTED FOR ORDINANCE NO 1997-10, AN ORDINANCE AMENDING SECTION 185 PROVIDING NEW AND REVISED FEES FOR RIGHTS-OF-WAY MANAGEMENT**

Assistant Manager Hughes explained Ordinance No. 1997-10 provides for new and revised fees and charges with respect to management of City rights-of way.

Recently enacted telecommunications right-of-way legislation (Minnesota Sessions Laws 1997, Chapter 123) restricts the types of fees which may be imposed upon telecommunication right-of-way users. The law provides that fees must be 1) based upon the actual cost incurred by the City in managing the right-of-way, 2) based upon an allocation among all users of the right-of-way which shall reflect, proportionate costs, 3) imposed on a competitively neutral basis, and 4) imposed in a manner so that above ground users of rights-of-way do not bear costs incurred to regulate underground users of rights-of-way. Chapter 123 also provides that the City costs that may be recovered are those associated with registering applicants, issuing, processing and verifying permit applications, inspections, maintaining or moving user equipment during right-of-way work, determining the adequacy of restoration, restoring work inadequately performed, and revoking right-of-way permits.

Based upon Chapter 123, staff estimated the costs associated with City rights-of-way management. According to itemized estimates, categories were established according to: 1) registration costs; 2) costs to issue permits and inspect work, and 3) costs to maintain our GIS system. Assistant Manager Hughes said based upon an estimated cost, the proposed fees were included in Ordinance No. 1997-9. These fees were developed based upon our right-of-way permit applications processed during the last two years. During years, the City issued slightly more than 250 permits and an estimated 20,000 lineal feet of underground utility extensions were installed. In 1996, fees derived from these permits totaled approximately \$7,000. Under the proposed fee structure, staff estimates the same number of permits and utility extensions will result in over \$30,000 in annual fees. The actual amount will vary from year-to-year depending upon the number of permits issued and the extent of utility installations.

Based upon these estimates, staff believes that the proposed Ordinance will result in fees which are commensurate with costs. Staff recommends the Council re-evaluates this fee schedule annually to determine if fees continue to be commensurate with costs.

One of the right-of-way users, Paragon Cable, is required to pay a franchise fee to the City pursuant to their franchise agreement. Although franchise agreements with Minnegasco and NSP allow for franchise fees, the City has not imposed such fees to date. The franchise fee paid by Paragon is based upon their use of our right-of way and a reimbursement of the City's costs associated with their use. Staff does not recommend Paragon or any other right-of-way user that pays a franchise fee should be required to pay additional fees pursuant to this Ordinance.

As with the Right-of-Way Management Ordinance, a copy of the proposed Fee Ordinance was distributed to the existing utilities as well as KMC Telecom and OCI. Staff recommends First Reading.

Public Comment

Stuart Fraser NSP Community Service Manager, thanked staff for the opportunity to work on the model ordinance with City staff. With few minor changes NSP feels the Ordinance will work well and feels comfortable with it.

George Blackwell, USWest, said USWest has enjoyed a solid working relationship with the City and wishes for it to continue. Upon receiving the draft Ordinance at a late hour, USWest asked if they might have additional time to prepare comments relative to the document. Mr. Blackwell noted a Statute is in place relating to a task force who will respond to the Public Utilities Commission with their recommendation regarding: 1) degradation costs, 2) state wide standards and 3) high-density corridors, relating more to the downtown area. USWest, historically has been opposed to paying franchise or user fees but the proposed fees do not reflect this. Mr. Blackwell asked if the fee structure could be examined after one year to see if the fees remain equitable.

Al Swintek, Minnegasco, told the Council that 14,000 customers are served by Minnegasco in Edina and they will pay \$368,000 in personal property taxes in 1997. He concurred that a good, workable right-of-way management policy takes time and is pleased that they were part of the process. Mr. Swintek concluded that Minnegasco feels comfortable with the Ordinance and appreciate being recognized as a franchised utility within the Ordinance.

Mayor Smith reminded Council the purpose of charging fees for the management of rights-of way is not to make money, only to cover costs.

**Member Faust made a motion granting First Reading to Ordinance No. 1997-10, an Ordinance Amending Section 185 of the City Code to Provide New and Revised Fees for the Management of City Rights-of-Way.** Member Maetzold seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

First Reading granted.

**\*BID AWARDED FOR PLAYER STRUCTURES FOR COURTNEY FIELD BALLFIELDS AT BRAEMAR PARK CONTRACT NO. 97-11PK** Motion made by Member Hovland and seconded by Member Maetzold for award of bid for Courtney Field player structures in Braemar Park ballfields, 1, 2, and 3, Contract No. 97-11PK, to sole bidder, Earl Weikle & Sons, at \$61,534.00.

Motion carried on rollcall vote- four ayes.

**\*BID AWARDED FOR IRRIGATION SYSTEM AT PAMELA PARK** Motion made by Member Hovland and seconded by Member Maetzold for award of bid for an irrigation system at Pamela Park to recommended low bidder, Miley's Sprinkler Systems at \$15,999.72.

Motion carried on rollcall vote - four ayes.

**\*BID AWARDED FOR POLICE DEPARTMENT 127 db OUTDOOR WARNING SIREN, POLE AND INSTALLATION** Motion made by Member Hovland and seconded by Member Maetzold for award of bid for Police Department 127 db outdoor warning siren, pole and installation to recommended low bidder, Killmer Electrical Company at \$15,806.00.

Motion carried on rollcall vote - four ayes.

**JULY 22, 1997, STORM UPDATE PRESENTED** Mayor Smith noted several residents had been affected by the heavy rains experienced from late June through July, especially July 22, 1997. He invited those persons to address their concerns to the Council, explaining that after all the citizens had a chance to be heard, City staff would present an assessment of the situation and the Council would discuss options.

Public Comment

Carrie Pappas, 4521 Tower Street, had sewage back up into her home. Ms. Pappas asked how many systems backed up and if there was an ordinance requiring sump pumps to be pumped into the yard. Ms. Pappas did not live here in 1987 and was assured her home was not in danger. When she called the City and asked what to do she was told to install a shut off valve. Ms. Pappas believes the City should pay for installation of a shut off valve to affected homes.

Joan Niemark, 4517 Tower Street, presented pictures depicting sewage that came in through the basement toilet. Ms. Niemark felt the City should have been more forthcoming in disclosing health risks. Her home has gone from a finished to an unfinished basement. Ms. Niemark's insurance had a \$5,000.00 cap. Installation of a sewer shut off valve would cost approximately \$1,500.00. If everyone on the street installed a shut off valve where would the sewage go. Is installing such a valve adequate protection.

Carol Niemers, 4508 Millers Lane, expressed concern over the value of her home. She stated many citizens now live in a fearful, uncomfortable situation. Ms. Niemers wants a time table from the City with how they intend to address this situation. She stated neighbors felt paranoid regarding the high water level on the north side of Lake Cornelia. Ms. Niemers thanked the clean up crews for their assistance.

Polly Prendergast, 6321 Ashcroft Lane, thanked City staff who helped pump out her home and Assistant to the City Manager Smith for dealing with Ms. Prendergast with great courtesy. Ms. Pendergast bought her home one year ago and the former owner did not disclose any event of previous water problems. Ms. Prendergast did not have sewer backup insurance. She believes the City should pay for the installation of any sewer shut off valves.

Namas Sahar, 6336 St. Johns Avenue, has lived in his home for 17 or 18 years. He lived through the 1987 storm and estimated his damage was approximately \$54,000.00. Mr. Sahar stated it took eight years to redo the first floor of his home. He did have insurance, but it had a \$5,000.00 cap and did not cover his furnace, washer, dryer or freezer. Mr. Sahar expressed concern regarding the health issue of sewer backing up into homes. Hiring professionals to clean up could have cost about \$15,000, so Mr. Sahar did the clean up himself.

Zika Srejovic, 18 Woodland Road, has lived for fourteen years in the same house. In 1987 his home was flooded and again now he had four feet of sewage in his basement. Mr. Srejovic estimated his damage to be \$90,000.00. He does not believe that sump pumps could cause the extreme problems suffered by himself and neighbors. Mr. Srejovic believes Edina has an old sewer system that must be corrected. He expressed concern regarding the value of his home.

Mary Hadadd, 4501 Tower Street, stated she agrees with the concerns expressed by previous speakers. She added neighbors has heard several rumors and would like the City to report the truth.

Marcia Dreis, 6332 Limerick Lane, stated she did not have sewage, however, her home had ankle deep water from seepage. Ms. Dreis had the Utility Department out to see the storm sewer near her home. She stated the storm sewer cover blows off and her back yard turns into a lake during any substantial rain and she would appreciate the City looking into this issue.

Gordon Johnson, 6409 Doron Lane, stated he was also speaking for his neighbors the Muellers, 6405 Doron Lane who were not able to attend. They experienced both storm water and sewage back up. Mr. Johnson expressed concern regarding health issues and house values and wondered what to do.

Pam Berling, 4129 West 62<sup>nd</sup> Street, expressed concern regarding health risks. She had four inches of sewage in her basement. Does she now remove her paneling and what needs to be done to her cedar closet. Ms. Berling is afraid of this happening again. She noted there is a lift station across from

her home that is checked daily by City staff, however, the morning of the 22<sup>nd</sup> she did not see any City staff checking that lift station. Ms. Berling asked if there is a correlation in living by a man hole and having sewage back up into her home.

Earl Holdrige, 4132 West 62<sup>nd</sup> Street, noted there is a truck at the lift station daily, but no truck appeared on the 22<sup>nd</sup>. Mr. Holdrige presented a circular distributed in the neighborhood by Barbara Hultman alleging that the property around Pamela Park is now a flood plain. He asked for verification of this information. Mayor Smith assured Mr. Holdrige staff would check into the information on the flyer.

Karen Dovolis, 6325 Ashcroft Lane had 26 inches of sewage in her basement. Her basement is now destroyed. Ms. Dovolis also had storm water approaching her house from St. Johns. She has had to sand bag her home to protect it. The rain water issue needs to be dealt with and the sewers need to be corrected.

Richard Lund, 6324 Millers Lane, stated his home was flooded in 1987 and sewage flooded it again this year. He had a similar amount of sewage this year as in 1987 when he was led to believe the sewer back up was a one time occurrence. Mr. Lund wants answers. He added he called the City's Utility Department almost a week ago and had not yet received a return call.

Don Bonstrom, 6328 Millers Lane, expressed concern that the changes to Lake Cornelia have caused a portion of the problem. He noted that the north side of Lake Cornelia is four feet higher than the south side even a week after the rain. Mr. Bonstrom hypothesized changes to the storm sewer that helped homes south of Lake Cornelia have caused damage to the north side. He asked that this be investigated and reported to the neighbors.

Ruth Eilers, 6201 Halifax, has been in her house for seven years. This is the second time she has been flooded. Three years ago her basement was flooded and it has been redone. Now, what should she do. She has concern about the disclosure she will have to make upon a sale and the value of the home for resale. Ms. Eilers added she feels angry that all sewer improvement work appears to be around commercial areas.

John Thill, 6336 Millers Lane, stated it seemed to him that all the damage is related to the Pamela lift station. For this occurrence he is covered by insurance. Mr. Thill feels the City is failing to keep the sewer system up to date. He noted the storm drain at St. Johns and 64<sup>th</sup> Street had water spouting out of it four feet high. Mr. Thill also feels the Lake Cornelia storm sewer work has caused problems. He reminded that Lake Cornelia and Lake Nancy all run together. He acknowledged the underground water table is very high, but feels the City must to do something.

Arnie Ryan, stated he lives at 63<sup>rd</sup> and Ashcroft. Mr. Ryan bought his grandmother's home about a year ago. This is a house she had lived in for thirty-five years. He had sewage back up into his basement causing extensive damage. Mr. Ryan also expressed concern for health issues in clean up. He stated his back yard turns into a lake anytime there is over a one inch rainfall and he must sandbag his home. The storm sewers converge at his house, run over the curb and into his back yard.

Dave Bush, 4208 Philbrook, stated he moved into his home in 1989 and had purchased the home from his in-laws. In 1987 the house was flooded. This time they had rain water seepage of about 2-4" each day. He has over 100 feet of exposed sewer in the back yard and outbuildings had 2-4 feet of water for several days. Mr. Bush noted there is a four foot storm sewer pipe that is never more than 1/3 full. He added his brother-in-law used to walk in the storm sewer as a kid over to Tower and told him the pipe did not look right, but he could not be more specific.

Byron Zotailey, 5504 Parkwood Lane, noted a home he owns on Ashcroft Lane had \$15,000-\$20,000 of damage so he commiserates with the neighbors. Mr. Zotailey believes this is a community problem and must be solved by the community as a whole. The issue has serious legal and political implications. He expressed concern that if the intent was to solicit comments, no notice of the meeting was sent to homeowners. Mr. Zotailey stated several citizens had the same experience in 1987 and were reassured that the City had taken care of the problems. He asked what was done in response to the 1987 flood, were more neighborhoods affected with sewer back up now or in 1987. Mr. Zotailey stated he believes that in the affected neighborhoods the sanitary sewer is not a confined system and asked if this was true or not. If not, then where does the pressure come from to cause the back up. He asked the City to respond to these concerns.

#### Staff Presentation

City Engineer Hoffman noted that staff believes approximately 300 homes experienced either sewer backup or water seepage following the July 22, 1997 rain storm. He introduced Assistant Engineer Wayne Houle to give details of the event.

Assistant Engineer Houle explained the situation following the July 22, 1997, storm with a visual presentation explaining:

- STORM OF 1987
  - a) followed a dry period
  - b) 14 inches of rain fell between July 20 and 24
  - c) rainfall amount caused surface water problems
- STORM OF 1997
  - a) average rainfall per storm 1-3 inches or approximately 16 inches from June 27 through July 22
  - b) caused surface water to 'percolate'
  - c) increased the ground water table
  - d) created subsurface water problem

#### FUNCTION OF STORM SEWERS:

- drain "clean water"
- direct rain and snowmelt runoff
- direct foundation drain systems
- design of storm sewers is for catch basins for small storms and ponds for large storms

#### FUNCTION OF SANITARY SEWERS:

- handle "dirty water", e.g. toilets, showers, washing machines, etc.
- transported to metro waste water treatment facilities
- design includes normal usage of 274 gallons per day per house

#### GROUND WATER (GWT)

- increases because of overland flow and standing water in lakes, ponds and streams

- CAUSES OF WATER IN HOMES:

- 1) Sanitary Sewer Backup Caused by:
  - a) foundation drains
  - b) sump pumps
  - c) manhole cover leakage
  - d) manhole and pipe leakage
  - e) roof leaders (downspouts and roof drains)

- 2) Ground Water Seepage
- 3) Overland Flooding

**LOCATION OF FLOODING - NORTH EAST QUADRANT**

- homes experienced sanitary sewer backups along two trunk lines
- general seepage
- minimal overland flooding

**LOCATION OF FLOODING - SOUTH EAST QUADRANT**

- homes experienced sanitary sewer backups along trunk sanitary sewer lines
- general seepage

**LOCATION OF FLOODING - SOUTH WEST QUADRANT**

- sanitary sewer backups
- overland flooding of one home and Braemar Golf Course
- general seepage

**LOCATION OF FLOODING - NORTH WEST QUADRANT**

- minor overland flooding
- homes experienced sanitary sewer backups along trunk sanitary sewer line
- general seepage

Engineer Hoffman concluded that at this time staff cannot with certainty explain how or why the home experienced flooding, but that staff recommends:

- Hire an outside consultant engineering firm to analyze the Trunk Sanitary Sewer System
- Utilize current engineering consultant to evaluate storm water system
- Staff will analyze surface water issues

Mayor Smith asked how the City's insurance carrier is responding to citizens' questions. Assistant to the City Manager Smith informed that all claims are passed onto the City's insurance carrier, the St. Paul Companies. The claims adjuster is Lisa Pederson and all claimants should hear from Ms. Pederson soon. Any citizen desiring to make a claim should call City Hall and the claim will be submitted to the St. Paul Companies.

**Council Discussion/Action**

Mayor Smith asked how many of the 19,000 single family homes was staff aware of that experienced difficulty. Engineer Hoffman noted the City picked up debris from between 300 to 400 homes after the storm.

Council members asked the following questions of staff:

- Does the Waste Water Commission have regulations regarding discharge of sump pumps into sanitary sewer?
- Where does Edina's sewage go for treatment?
- Could consultants inventory how many sump pumps are directed into the sanitary system?
- Was a consultant hired in 1987 and what were their findings?
- If a consultant reviewed the 1987 event should they have predicted the 1997 event?

The Council expressed concerns relating to the cause of the disaster, the condition of the sewer, the capacity of both the sanitary and storm sewer systems, how to inform residents regarding flooding, consultant findings, and clean up after a disaster.

Mayor Smith summarized the recommendations and directions from Council as follows:



- Outside consultants will review the capacity and integrity of the sanitary and storm sewer systems.
- Review group water situations
- Develop information for distribution to the public on: How to Protect, How to Clean Up and Insurance Coverage's Available

**Member Maetzold made a motion authorizing the City Manager to hire a consultant engineer to review the City's sanitary sewer system.** Member Hovland seconded the motion.

Ayes: Faust, Hovland, Kelly, Maetzold, Smith

Motion carried.

**\*UPDATE PRESENTED ON TURN OF CENTURY DATE CHANGE FOR CITY COMPUTERS** Motion made by Member Hovland and seconded by Member Maetzold acknowledging receipt of an update on turn of the century date change for the year 2000 for City computers.

Motion carried on rollcall vote - four ayes.

**\*PETITIONS RECEIVED FOR EDINA BOULEVARD STORM SEWER; MCGUIRE ROAD DRAINAGE IMPROVEMENT; AND GLEASON ROAD AND WEXFORD ROAD STORM SEWER IMPROVEMENT** Motion made by Member Hovland and seconded by Member Maetzold acknowledging receipt of petition from Carrie Ruppert and Michael Misewicz, 4615 Edina Boulevard and Jill and John Trautz, 4613 Edina Boulevard requesting storm sewer improvements; Linda Helland, 5720 McGuire Road requesting improved drainage in McGuire Park and from Michael McShane, 7137 Gleason Road, R. A. Coonrod 7133 Gleason Road and Lee Chapman, 7032 Wexford Road requesting storm sewer improvement and to refer the petitions to engineering for processing as to feasibility.

Motion carried on rollcall vote - four ayes.

**RESOLUTION ADOPTED APPROVING GENERAL OBLIGATION TEMPORARY TAX INCREMENT FINANCING BOND SERIES 1997B** Assistant Manager Hughes explained that on July 21, 1997, the HRA authorized entering into Purchase Agreements with respect to the acquisition of the Lewis Engineering and Kunz Oil properties. Staff recommended that this acquisition should be financed through the issuance of an internal bond between the City and the HRA whereby reserve balances of other districts are lent temporarily to the Grandview Tax Increment District. The attached documents provide for the issuance of \$2,500,000 in bonds for this purpose. Staff recommends adoption.

**Member Kelly introduced the following resolution and moved its adoption:**

**RESOLUTION AUTHORIZING ISSUANCE, AWARDED SALE,  
PRESCRIBING THE FORM AND DETAILS AND PROVIDING FOR  
THE PAYMENT OF GENERAL OBLIGATION TEMPORARY  
TAX INCREMENT BONDS,**

**SERIES 1997B IN THE PRINCIPAL AMOUNT OF UP TO \$2,500,000**

**BE IT RESOLVED** by the City Council of the City of Edina, Minnesota (the "Issuer"), as follows:

**Section 1. Authorization and Sale.**

**1.01 Authorization.** This Council hereby determines that it is necessary and in the best interest of the Issuer to issue and sell its General Obligation Temporary Tax Increment Bonds, Series 1997B in the principal amount of up to \$2,500,000 (the "Bonds") pursuant to Minnesota Statutes, Section 469.178, subdivision 5(a) to finance the costs of acquisition of property, the demolition of existing structures located thereon and other site preparation costs (such acquisition, demolition and site preparation are herein called the "Project") to be undertaken by the Housing and Redevelopment Authority of Edina, Minnesota (the "HRA") as a part of the Grandview Area Redevelopment Plan of the HRA.

1.02 Sale. The Bonds will be purchased by the HRA from advances made from time to time from surplus funds on hand in the project fund for the 50<sup>th</sup> and France Tax Increment Financing District of the HRA (the "Fund") which are not presently needed for the purposes of the fund prior to the maturity of the Bonds. After issuance the Bonds will be held as an asset of the Fund.

**Section 2. Bond Terms; Registration; Execution and Delivery.**

2.01 Issuance of Bonds. All acts, conditions and things which are required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed precedent to and in the valid issuance of the Bonds having been done, now existing, having happened and having been performed, it is now necessary for the City Council to establish the form and terms of the Bonds, to provide security therefor and to issue the Bonds forthwith.

2.02 Maturity Date; Interest Rate; Denominations and Payment. The Bonds shall be originally dated as of the date of original issue thereof, shall be in the denomination of \$5,000 each, or any integral multiple thereof, of single maturities, shall mature on three years from their date of issue, and shall bear interest from date of issue until paid or duly called for redemption at the annual rate of 4.50% on the amounts from time to time advanced thereunder, which annual rate the Issuer, upon consultation with its financial advisor, has determined to be a fair rate of interest in light of current market conditions. The Bonds shall be issuable only in fully registered form and only to the HRA. The Bonds may not be transferred to any other owner; however the Issuer may refund the Bonds and reimburse the HRA by the issuance of long term bonds of the Issuer or additional temporary bond of the Issuer in accordance with the provisions of Minnesota Statutes, section 469.178, subdivision 5(a). The principal of and the interest on the Bonds shall be payable by transfer of funds from the Bond fund created in Section 3.02 hereof to the HRA.

2.03 Interest Payment Dates. Interest on the Bonds shall be payable on each August 1 and February 1, commencing February 1, 1998, and on the maturity date of the Bonds, to the HRA as the registered owner of the Bonds.

2.04 Redemption. The Bonds shall be subject to redemption and prepayment at the option of the Issuer, in whole or in part, and if in part in multiples of \$5,000, on any date at a price equal to the principal amount thereof and accrued interest to the date of redemption. No formal notice of redemption need be given. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the HRA representing the remaining principal amount outstanding.

2.05 Appointment of Paying Agent. The Issuer hereby appoints the Finance Director of the City of Edina as the paying agent for the Bonds (the Paying Agent).

2.06 Execution, Authentication and Delivery. The Bonds shall be prepared under the direction of the Finance Director and shall be executed on behalf of the Issuer by the manual signatures of the Mayor and the City Manager. In case any officer whose signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery. When the Bonds have been prepared and executed. The Finance Director shall deliver the Bonds to the HRA upon payment of the purchase thereof.

2.07 Form of Bonds. The Bonds shall be prepared as a single typewritten bond in substantially the following form:

UNITED STATES OF AMERICA  
STATE OF MINNESOTA  
COUNTY OF HENNEPIN  
CITY OF EDINA

GENERAL OBLIGATION TEMPORARY TAX INCREMENT BOND, SERIES 1997B

Interest Rate Maturity Date Date of Original Issue CUSIP

4.50% \_\_\_\_\_, 2000 \_\_\_\_\_, 1997 N/A

**REGISTERED OWNER: HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA**

**PRINCIPAL AMOUNT: TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000)**

**THE CITY OF EDINA, COUNTY OF HENNEPIN, MINNESOTA (the "Issuer"), acknowledges itself to be indebted and hereby promises to pay to the registered owner named above the principal sum specified above or such amount thereof as has been advanced hereunder on the maturity date specified above, with interest thereon on the un-paid principal amount at the annual rate specified above, payable on August 1 and February 1 of each year, commencing February 1, 1998, and on the maturity date specified above to said registered owner, subject to the provisions referred to herein with respect to the redemption of the principal of this Bond before maturity. For the prompt and full payment of such principal and interest as the same respectively become due, the full faith and credit and taxing powers of the Issuer have been and are hereby irrevocably pledged.**

**This Bond is one of an issue in the aggregate principal amount of up to \$2,500,000 issued pursuant to a resolution adopted by the City Council on August 4, 1997 (the "Resolution") to provide funds to finance certain public improvements to be undertaken as a part of the Grandview Area Redevelopment Plan of the Housing and Redevelopment Authority of Edina, Minnesota (the "HRA"), and is issued pursuant to and in full conformity with the Constitution and laws of the State of Minnesota thereunto enabling, including Minnesota Statutes, Chapters 469 and 475.**

**This Bond is subject to redemption and prepayment at the option of the Issuer, in whole or in part, and if in part in multiples of \$5,000, on any date, at a price equal to the principal amount thereof plus interest accrued to the date of redemption. No formal notice of redemption shall be required. Upon partial redemption of this Bond, a new Bond will be executed and registered in the name of the registered owner named above, representing the remaining principal amount outstanding.**

**THIS BOND MAY NOT BE TRANSFERRED TO ANY OWNER OTHER THAN THE HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA BUT THE CITY MAY REIMBURSE THE HOUSING AND REDEVELOPMENT AUTHORITY OF EDINA, MINNESOTA AND REFUND THIS BOND BY THE ISSUANCE OF LONG TERM BONDS OF THE ISSUER OR ADDITIONAL TEMPORARY BONDS OF THE ISSUER IN ACCORDANCE WITH THE PROVISIONS OF MINNESOTA STATUTES, SECTION 469.178, SUBDIVISION 5(a).**

**IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of Minnesota to be done, to exist, to happen and to be performed preliminary to and in the issuance of this Bond in order to make it a valid and binding general obligation of the Issuer in accordance with its terms, have been done, do exist, have happened and have been performed as so required; that the Issuer has established its General Obligation Temporary Tax Increment Bonds, Series 1997B Bond Fund and has appropriated thereto ad valorem tax increments to be derived from the Grandview Area Tax Increment Financing District (Hennepin County No. 1202) of the HRA to be applied to the payment of the principal of and interest on the Bond; that to the extent that the principal of and interest on the Bond cannot be paid when due from tax increment revenues or other funds appropriated for that purpose, the Bond shall be paid from proceeds**

of general obligation bonds of the Issuer offered for sale in advance of the maturity date of the Bond; but the Issuer has pledged its full faith and credit and taxing powers for the payment of the principal of and interest on the Bond when due, and if the Bond and the interest thereon are not paid in full when due, the Issuer is required to levy upon all taxable property within its corporate limits, without limitation as to rate or amount, an ad valorem tax in an amount sufficient to pay such principal and interest. It is further certified, recited, covenanted and agreed that if the Bond is not paid in full at maturity, in addition to any other remedy authorized or permitted by law, the Issuer may execute and deliver to the registered owner hereof, in exchange for the Bond on a par-for-par basis, new general obligation temporary tax increment bonds maturing within one year from their date of issue and bearing interest at the rate of interest set forth in the resolution authorizing their issuance, not exceeding the maximum rate permitted by law and that the issuance of this Bond, together with all other indebtedness of the Issuer outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of the Issuer to exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, the City of Edina, Hennepin County, Minnesota, by its City Council has caused this Bond to be executed on its behalf by the signatures of the Mayor and City Manager and has caused this Bond to be dated as of the Date of Original Issue set forth above.

CITY OF EDINA, MINNESOTA

---

City Manager

---

Mayor

**Section 3. Security Provisions.**

**3.01. General Obligation Temporary Tax Increment Bonds, Series 1997B Construction Fund.** There is hereby established on the official books and records of the Issuer a General Obligation Temporary Tax Increment Bonds, Series 1997B Construction Fund (the Construction Fund). To the Construction Fund there shall be credited from any amounts advanced under the Bond and from the Construction Fund there shall be paid by the City or HRA all costs and expenses of the Project and the issuance of the Bonds. After payment of all costs of the Project, the Construction Fund shall be discontinued and any Bond proceeds and other funds remaining therein shall be transferred to the General Obligation Temporary Tax Increment Bonds, Series 1997B Bond Fund.

**3.02. General Obligation Temporary Tax Increment Bonds, Series 1997B Bond Fund.** So long as any of the Bonds are outstanding and any principal of or interest thereon unpaid, the Treasurer shall maintain a separate debt service fund on the official books and records of the Issuer to be known as the General Obligation Temporary Tax Increment Bonds, Series 1997B Bond Fund (the Bond Fund), and the principal of and interest on the Bonds shall be payable from the Bond Fund. The Issuer irrevocably appropriates to the Bond fund:

(a) any excess proceeds of the Bonds transferred to the Bond fund pursuant to Section 3.01 above;

(b) ad valorem tax increments described in the last paragraph of this Section 3.02 to be received from the HRA;

(c) to the extent necessary, the proceeds from the sale of definitive general obligation tax increment bonds, or the proceeds of a series of additional general obligation temporary tax increment bonds, required to be sold by the Issuer in accordance with Minnesota Statutes,

Section 469.178, subdivision 5, to provide funds for the payment of the principal of the Bonds at maturity and thereby reimburse the HRA; and

(d) the ad valorem taxes described in 3.03 hereof.

The moneys on hand in the Bond fund from time to time shall be used solely to pay the principal of and interest on the Bonds.

Pursuant to Minnesota Statutes, Section 469.178, subdivision 2, the Issuer has entered into a pledge agreement with the HRA whereby the HRA will pay to the Issuer from tax increments generated by the Grandview Area Tax Increment Financing District (Hennepin County No. 1202) of the HRA tax increments sufficient, with any other funds appropriated by the Issuer to the Bond Fund, to pay when due the principal of and interest on the Bonds. Payments received by the Issuer pursuant to the agreement will be deposited into the Bond Fund.

**3.03 Pledge of Taxing Powers.** For the prompt and full payment of the principal of and interest on the Bonds as such payments respectively become due, the full faith, credit and unlimited taxing powers of the Issuer shall be and are hereby irrevocably pledged. It is hereby determined that the funds appropriated to the Bond Fund as set forth in Section 3.02 hereof will produce amounts not less than five percent in excess of the amounts needed to meet when due the principal and interest payments on the Bonds, and therefore no ad valorem taxes are required to be levied at this time. Nevertheless, if the balance in the Bond fund is at any time insufficient to pay all interest and principal then due on all Bonds payable therefrom, the payment shall be made from any fund of the Issuer which is available for that purpose, subject to reimbursement from the Bond Fund when the balance therein is sufficient, and the City Council covenants and agrees that it will each year levy a sufficient amount of ad valorem taxes to take care of any accumulated or anticipated deficiency, which levy is not subject to any constitutional or statutory limitation.

**3.04 Exchange of Additional Temporary Improvement Bonds.** In accordance with Minnesota Statutes, Section 469.178, subd.5, if the Bonds are not paid in full at maturity, in addition to any other remedy authorized or permitted by law, the Issuer may issue to the HRA, in exchange for the Bonds then held by the HRA on a par-for-par basis, new general obligation temporary tax increment bonds maturing within one year from their date of issue and bearing interest at the rate of interest set forth in the resolution authorizing their issuance not exceeding the maximum rate permitted by law.

#### **Section 4. Certification of Proceedings.**

**4.01 Registration of Bonds.** The City Clerk is hereby authorized and directed to file a certified copy of this resolution with the County Auditor of Hennepin County and obtain a certificate that the Bonds have been duly entered upon the Auditor's bond register.

**4.02 Authentication of Transcript.** The officers of the Issuer and the County Auditor are hereby authorized and directed to prepare and furnish to the HRA and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records relating to the Bonds and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Bonds, as the same appear from the books and records in their custody and control or as otherwise known to them, and all such certified copies, affidavits and certificates, including any heretofore furnished, shall be deemed representations of the Issuer as to the correctness of all statements contained therein.

Member Maetzold seconded the motion.

Adopted this 4<sup>th</sup> day of August, 1997.

Attest:

---

City Clerk

---

Mayor

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith  
Resolution adopted.

**CLAIMS PAID** Member Maetzold made a motion to approve payment of the following claims as shown in detailed on the check Register dated July 30, 1997, and consisting of 32 pages: General Fund \$185,212.29; C.D.B.G. \$2,625.00; Communications \$1,457.39; Working Capital \$10,191.04; Art Center \$12,171.98; Swimming Pool fund \$4,581.18; Golf Course Fund \$37,448.33; Ice Arena Fund \$13,153.46; Gun Range Fund \$34.56; Edinborough/Centennial Lakes \$35,467.46; Utility Fund \$314,661.08; Storm Sewer Utility Fund \$5,455.43; Liquor Dispensary Fund \$182,398.01; Construction Fund \$12,873.00; Park Bond Fund \$7,250.02; **TOTAL \$824,980.23.** Member Faust seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Kelly, Maetzold, Smith  
Motion carried.

There being no further business on the Council Agenda, Mayor Smith declared the meeting adjourned at 11:52 P.M.

---

City Clerk